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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/502,299 | 07/22/2004 | Michael James Baker | 608-432 | 1587 |
| 23117 | 7590 | 03/07/2006 | EXAMINER | |
| NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | HAILEY, PATRICIA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1755 | |

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/502,299 | BAKER ET AL. | |
| | Examiner | Art Unit | |
| | Patricia L. Hailey | 1755 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 39-66 and 71-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 39-66 and 71-75 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Applicants' remarks and amendments, filed on December 13, 2005, have been carefully considered. Non-elected claims 67-70 have been canceled without prejudice; no claims have been added.

Claims 39-66 and 71-75 remain pending in this application.

Withdrawn Rejections

The objection to claim 39, stated in the previous Office Action, has been withdrawn in view of Applicants' amendment to this claim.

The 103(a) rejection of claims 39-66 and 71-75 as being unpatentable over Baker et al. (U. S. Patent No. 6,534,438), stated in the previous Office Action, has been withdrawn in view of Applicants' persuasive arguments traversing this rejection.

New Ground of Rejection

The following New Ground of Rejection is being made in view of the newly discovered reference to Bartley (U. S. Patent No. 5,179,056).

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. ***Claims 39-66 and 71-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartley (U. S. Patent No. 5,179,056).***

Bartley discloses a process for producing catalyst for the production of alkyenyl alkanoates from alkenes, alkanoic acids, and an oxygen-containing gas (col. 1, lines 10-15), said process comprising impregnating support particles with aqueous solutions of water-soluble palladium and gold compounds, precipitating the compounds onto the support with a precipitating agent, converting the precipitated compounds to palladium and gold with a reducing agent, washing and drying the support particles, further impregnating the support particles with a potassium promoter, and drying the impregnated particles to produce a catalyst. See col. 5, lines 8-35 of Bartley.

An example of the promoter is potassium acetate; an example of the reducing agent is hydrazine. See col. 5, lines 55-59 of Bartley, as well as col. 6, lines 35-53. Although Bartley teaches that the “promoters are preferably applied in the form of aqueous solutions” (col. 6, lines 51-53), this teaching is not considered to exclude the employment of promoters in solid form. Selecting the physical state of a known material would have been within the level of ordinary skill in the art on the basis of its suitability with respect to mode of application and/or availability.

Examples of the support particles include particulate silica (considered to read upon “microspheroidal”), alumina, and silica-aluminas. See col. 6, lines 3-12 of Bartley.

Bartley discloses that the drying step can be performed at temperatures ranging from 40°C to 120°C. See col. 7, lines 4-9.

The catalysts produced by the aforementioned process preferably contains from about 0.5 weight percent to about 1.7 weight percent palladium (based on the total weight of the catalyst), and the gold to palladium weight ratio ranges from 0.2 to 1.5. See col. 7, lines 20-28 of Bartley.

At col. 9, lines 15-60, Bartley discloses an exemplary catalyst preparation procedure, in which a support and palladium and gold components are mixed and gently agitated, the precipitating agent is added with “mixing for a few seconds” (considered equivalent to “agitation”), and the reducing agent is added with agitation.

Although the exemplary preparation includes instances in which the mixtures are allowed to stand, these instances are not considered to preclude the process of Bartley from reading upon Applicants’ claimed process, in view of Applicants’ recitation of the term “comprising” in describing the claimed process.

Such a term in a process claim does not limit the claim to only those procedures which yield desirable results, or limit the claim to only those steps recited in the claim. Ex parte Stoddard et al. (POBA 1967) 154 U.S.P.Q.184, In re Halley (CCPA 1961) F2d 774, 132 U.S.P.Q. 16.

Conclusion

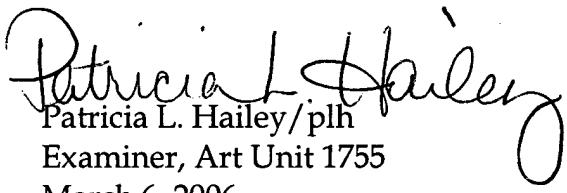
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

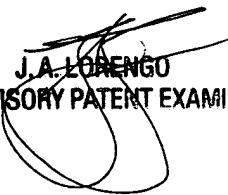
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patricia L. Hailey / plh
Examiner, Art Unit 1755
March 6, 2006


J.A. LORENZO
SUPERVISORY PATENT EXAMINER